

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>WILLIAM JONES,</b>	)	
<b>Plaintiff,</b>	)	
	)	<b>C.A. No. 23-199 Erie</b>
	)	
<b>v.</b>	)	
	)	<b>District Judge Susan Paradise Baxter</b>
<b>CHCA EDWARDS, et al,</b>	)	<b>Chief Magistrate Judge Richard Lanzillo</b>
<b>Defendants.</b>	)	

**MEMORANDUM ORDER**

Plaintiff William Jones, an inmate incarcerated at the State Correctional Institution at Albion, Pennsylvania (“SCI-Albion”), initiated this *pro se* civil rights action by filing a complaint against five (5) employees of the Pennsylvania Department of Corrections staffed at SCI-Albion (“DOC Defendants”) and three independent medical providers under contract to provide medical services to inmates at SCI-Albion (“Medical Defendants”). The DOC Defendants are Corrections Healthcare Administrator (“CHCA”) Edwards, and corrections officers Pabon, Dougherty, Blumenstein, and Fox, and the Medical Defendants are Dr. Baird, PA Stroup, and PA Jacobson. The matter was referred to Chief United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On January 16, 2024, Plaintiff filed an amended complaint [ECF No. 59], which is the operative pleading in this case. In his amended complaint Plaintiff asserts that DOC Defendants Pabon, Dougherty, Blumenstein, and Fox used excessive force against him in violation of his Eighth Amendment rights, and that DOC Defendant Edwards and the Medical Defendants were deliberately indifferent to the serious injuries he allegedly suffered as a result of the excessive

force incident, also in violation of his Eighth Amendment rights.

On January 18, 2024, the DOC Defendants filed a motion to dismiss Plaintiff's amended complaint for failure to state a claim [ECF No. 56], and the Medical Defendants' subsequently filed their own motion to dismiss, or in the alternative, motion for summary judgment [ECF No. 70]. Plaintiff filed responses to both motions.

On August 12, 2024, Chief Magistrate Judge Lanzillo issued a Report and Recommendation ("R&R") recommending that the DOC Defendants' motion be granted as to Plaintiff's claim against Defendant Edwards, but denied as to Plaintiff's claim against the remaining DOC Defendants, and that the Medical Defendants' motion to dismiss be granted. [ECF No. 90]. The R&R recommends further that the claims against Defendant Edwards and the Medical Defendants be dismissed without prejudice to Plaintiff's right to amend such claims.

Objections to the R&R were due to be filed by August 29, 2024. On that date, Plaintiff filed a motion to compel discovery. ECF No. [93]. Based on that motion, Plaintiff also filed a motion for an extension of time to respond to the R&R. ECF No. [92].

Given the current posture of this case, the Court's focus is primarily on the sufficiency of Plaintiff's allegations, rather than the sufficiency of his evidentiary proof. In his R&R, the Chief Magistrate Judge recommends the dismissal of certain claims pursuant to Rule 12(b)(6) and the denial of Defendants' request for relief under Rule 56. As this Court agrees with that recommendation, it is premature for the Court to compel discovery. Plaintiff cited no other basis that would justify an extension of time for filing objections to the R&R. Moreover, this Court agrees with the Chief Magistrate Judge's view that the dismissal of Plaintiff's claims should be *without prejudice* and that Plaintiff should have an opportunity to cure the present deficiencies in his pleading. In the event Plaintiff needs more time to file his amended pleading than is

presently contemplated by this Order, he may file a motion to extend the pleading deadline.

Thus, after *de novo* review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 3rd day of September, 2024;

IT IS HEREBY ORDERED that the DOC Defendants' motion to dismiss [ECF No. 56] is GRANTED IN PART and DENIED IN PART, as follows:


1. The motion is GRANTED as to Plaintiff's Eighth Amendment claim against Defendant CHCA Edwards and such claim is DISMISSED, without prejudice; and
2. The motion is DENIED as to Plaintiff's Eighth Amendment claim against Defendants Pabon, Dougherty, Blumenstein, and Fox.

IT IS FURTHER ORDERED that the Medical Defendants' motion to dismiss [ECF No. 70] is GRANTED and all claims against Defendants Baird, Stroup, and Jacobson are DISMISSED, without prejudice. The Medical Defendants' alternative motion for summary judgment on the basis of exhaustion is DENIED without prejudice and may be reasserted at a later stage of these proceedings.

IT IS FURTHER ORDERED that Plaintiff's Motion for an Order Compelling Discovery, ECF No. [93], is DENIED as premature and Plaintiff's Motion for an Extension of Time to respond to the Report and Recommendation is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff is granted leave to amend his complaint within thirty (30) days of the date of this Order to correct the deficiencies noted in the R&R with regard to his claims against Defendants Edwards, Baird, Stroup, and Jacobson. In the event Plaintiff fails to amend any of the foregoing claims within the time prescribed, or within such extended period as the Court may allow, the claims against Defendants Edwards, Baird, Stroup, and Jacobson will be dismissed with prejudice without further notice of the Court.

The report and recommendation of Chief Magistrate Judge Lanzillo, issued August 12, 2024 [ECF No. 90], is adopted as the opinion of the Court.

  
SUSAN PARADISE BAXTER  
United States District Judge

cc: The Honorable Richard A. Lanzillo  
Chief U.S. Magistrate Judge